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The Bengal Chamber of Commerce & Industry

INCOME TAX

CUSTOMS

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EDITORIAL

Friends,

In Income Tax pre-filled ITRS are available for all individuals. Now the Income Tax Department has started providing pre- filled xml to file Income Tax Return for ITR-1, 2, 3, and 4 which is to be filled by the individuals for the F.Y 2018-19. This pre-filled xml file has made the process of filling Income Tax Return easier as compared to earlier process where the individuals were required to fill the personal details such as name, address Permanent Account Number (PAN) etc. manually in the utility unlike individuals filling ITR-1.

Due date to file ITR for F.Y 2018-19 may be extended. The due date to file Income Tax Return for individual for F.Y 2018-19 is 31st July, 2018. There are certain issues faced by the individuals which require extension of due date of filling ITR some of which includes that the due date of filling TDS return was extended for form 24Q as the format of the same was revised by the CBDT thereby extending the due date to issue Form 16 to the employees for the current year. Further, any errors cited by the employees in their form 16 needs to be corrected which require some more time because revision of TDS return required for the same.

In Income Tax Return share- wise details in case of capital gains is optional. It has been clarified by the CBDT that the reporting of share- wise details for capital gains is not mandatory to be given in the Income Tax Return filed by the individuals for F.Y 2018-19.

Two businessmen arrested for fraudulent availment and utilization of Input Tax Credit of around Rs. 40 crores. After the investigation search conducted at several places during which various issuance of fake invoices were found among M/s Jatalia Global Ventures Ltd, Delhi and M/s Manoj Cables Ltd. Delhi without any actual movement of goods thereby resulting in wrongful availment and utilization of fake input tax credit. The same have been agreed by the businessmen of the said companies. Now since, Department is taking strict steps against the fraudulent issuance of fake invoices and then availment and utilization of the ITC, the taxpayers needs to remain alert before raising such fake invoices.

Mr. Anupam Singla son of Mr. Krishan Kumar Singla of Haryana arrested for issuing bogus invoices without supply of goods. During the search, it was found that 90 fake firms were created fake invoices worth Rs. 7672 crore with a GST component of Rs. 660 crore without actual supply of goods were issued and the ITC was passed on to the Traders and Cotton Yarn Spinners who have availed of the same to discharge their GST liability against their outward supplies. Further, 110 debit/credit cards; blank signed cheque books pertaining to 173 different bank accounts; blank receipt books belonging to various transporters; identity proofs of different persons; number of mobile SIM cards and documents were also found. Now since, Department is taking strict steps against the fraudulent issuance of fake invoices and then availment and utilization of the ITC, the taxpayers needs to remain alert before raising such fake invoices.

We do hope that this bulletin adds value to your professional sphere.

Just to reiterate that we remain available over telecom or e-mail.

Truly Yours

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SYNOPSIS

TAX CALENDAR

No Important Due Dates In This Week

INCOME TAX

CIRCULAR/ CASE LAW

CLARIFICATION ON CERTAIN PROCEDURAL ISSUES UNDER SECTION 195 OF THE INCOME DISCLOSURE SCHEME, 2016

OUR COMMENTS: The Dept. of Revenue, Ministry of Finance, Government of India **vide Circular No. 15/2019 dated 12.07.2019** has given clarifications in respect of third instalment under the Income Declaration Scheme, 2016. The clarifications received for the payment made after the due date because of bank holiday on due date and payment made within due date but the credit of amount delayed.

GEMMOLOGICAL INSTITUTE OF INDIA VERSUS ADDL. DIRECTOR OF INCOME TAX [EXEMPTION] RANGE-II, MUMBAI

BRIEF: Whether the assessee engaged in charitable activity u/s 2(15)

OUR COMMENTS: In the given case, the object of the assessee trust was established for charitable purpose of education and for encouraging and promoting theoretical and practical education in gemology and scientific study of precious stones of all types and the assessee was established to impart education. Another plea raised is that the assessee was engaged in carrying out Research & Development Activities during the year and as a part of the same, carried out testing activities with a view to address the problem of imitation being faced by the Gem industry and therefore, the said activities would merely be an incidental activity carried out in furtherance to achieve pre-dominant objective of Research & Development.

The considered opinion by the authority was that the issue would require reappreciation by Ld. AO in view of the fact that the main objects of the assessee trust as well as the connection of testing activities vis-à-vis main objects, has not been brought on record by lower authorities.

Further, onus to establish that the testing activities were merely incidental to the attainment of the prime objective of the trust i.e. education and separate books were maintained by the assessee in respect of such business would be on assessee. On the other hand, if the objects of the assessee are found to be covered by last limb i.e. advancement of any other object of general public utility, the 1st proviso of Section 2(15) would squarely apply to the case of the assessee since the assessee is providing service in relation to any trade, business or commerce. In that case, the case has to be adjudicated in the light of the binding judicial pronouncements from the point of view of 'profit motive' as cited by the authority in the opening paragraphs. Needless to add that, in the event of activity of 'testing fees' found to be having no connection with assessee's primary objectives, the same would be a separate line of business activity for the assessee and no deduction would be available to the assessee u/s 11 on account of this activity. With these directions & observations, the matter would stand reverted back to the file of Ld. AO for re-adjudication - Assessee' appeal stands allowed for statistical purposes.

GST: CGST/IGST/SGST/UTGST

CIRCULAR/ CASE LAW

CORRIGENDUM TO CIRCULAR NO. 102/21/2019-GST - CLARIFICATION REGARDING APPLICABILITY OF GST ON ADDITIONAL / PENAL INTEREST - GST

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Circular No. 102/21/2019-GST dated 15.07.2019** has issued corrigendum to the **Circular No. 102/21/2019-GST dated 28.06.2018**.

AUTHORITY FOR ADVANCE RULING, GOA- IN RE: M/S. CHOWGULE & CO PVT. LTD.

BRIEF: Leviation of IGST, person liable to pay IGST, eligibility to claim input tax credit on the IGST so paid and to claim refund of unutilized input tax credit on export of services- import of iron ore for conversion into pellets and export of the resultant product (iron ore pellets) back to the same supplier.

OUR COMMENTS: In the given case, the applicant made an agreement with the non-resident party to provide service of conversion of iron ore into pellets where the iron ore shall be arranged by the non-resident from abroad and the same would be imported in India by the applicant using its own GSTIN, though the iron ore shall always remain the property of the non-resident. The applicant will export the pellets to the non-resident or to any other non-resident parties as nominated by the non-resident. The applicant will raise the invoice for the conversion charges from the non-resident at the agreed rate in Foreign Exchange because the iron ore so imported remains the property of the non-resident and the applicant will be receiving only the proceeds for conversion of iron ore fines into iron ore pellets in foreign exchange.

Here, goods were imported on a temporary basis for conversion into pellets and arc exported after such conversion, second proviso to section 13(3) (a) of the IGST Act, 2017 is applicable. Hence, as per section 13(2) of the IGST Act, 2017, the place of supply of service is the location of the recipient of the service which is outside India and since the place of supply of service is outside India, third condition of section 2(6) of the IGST Act, 2017 is also fulfilled. So it is concluded that the service provided by the applicant falls within the definition of export of service as defined under Section 2(6) of the IGST Act, 2017.

Further, the assessee can be eligible to take the credit of the input tax charged on the supply of goods or services to him which are used or intended to be used in the furtherance of the business.

Further, The Government of India vide Notification No. 1-2016/Customs dated 04th Jan 2016 reduced the rate of export duty on Iron Ore Pellets from 5% to Nil which is also a rate of tax as settled by the law. Since the goods exported are covered under Second Schedule of the Export Tariff appended to the Customs Tariff Act, 1975 the same goods are to be considered as subjected to tax - the exclusion clause provided under Section 54(3)(ii) is applicable in the instant case - the applicant is not eligible for the refund of unutilized input tax credit.

FEMA

CIRCULAR

EXIM BANK'S GOVERNMENT OF INDIA SUPPORTED LINE OF CREDIT TO THE GOVERNMENT OF INDEPENDENT STATE OF PAPUA NEW GUINEA AND THE GOVERNMENT OF THE REPUBLIC OF SENEGAL VIDE RBI/2019-20/14 DATED 11.07.2019 AND RBI/2019-20/15 DATED 11.07.2019 RESPECTIVELY

OUR COMMENTS: The EXIM Bank of India entered into two agreements with the Government of Independent State of Papua New Guinea dated 17th January, 2019 and the Government of the Republic of Senegal dated 20th August, 2018 which shall be effective from 25th June, 2019 and 26th June 2019 respectively.

As per the agreement the financing of export of eligible goods and services from India, would be allowed they are eligible for export under the Foreign Trade Policy of the Government of India and whose purchase may be agreed to be financed by the Exim Bank.

The supplier should supply at least 75% of the contract price from India and the balance 25% may be supplied by the seller from outside India.

Further, no commission is payable to the agency under the agreement. However, if required, the exporter may use his own resources or utilize balances in his Exchange Earners' Foreign Currency Account for payment of commission in free foreign exchange and Authorized Dealer Category- I banks may allow such remittance after realization of full eligible value of export subject to compliance with the extant instructions for payment of agency commission. The terms of the agreement is as under:-

Country	Purpose	Amount of LoC (USD)
Independent State of Papua New Guinea	Bayer-Madang road project	60 Million
	Hoskins-Kimbe road project	40 Million
The Republic of Senegal	Financing up-gradation and rehabilitation of Health Care System	24.5 Million

CUSTOMS

NOTIFICATION

TARIFF NOTIFICATION IN RESPECT OF FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SILVER - 51/2019 - CUSTOMS - NON TARIFF

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 51/2019- Customs (N.T.) dated 15.07.2019** made amendments in the Notification No. 36/2001- Customs (N.T.) dated 3.08.2001.

SEEKS TO EXTEND LEVY OF ANTI-DUMPING DUTY TILL 27.10.2019, ON IMPORTS OF " PARACETAMOL" ORIGINATING IN OR EXPORTED FROM CHINA PR, EXTENDED VIDE NOTIFICATION NO. 39/2018 CUSTOMS (ADD), DATED THE 20TH AUGUST, 2018, IN PURSUANCE OF ORDER OF HON'BLE HIGH COURT OF GUJARAT IN THE MATTER OF SCA 5278/2019. - 27/2019 - ANTI DUMPING DUTY

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 51/2019- Customs (N.T.) dated 15.07.2019** extended the leviation of anti-dumping duty on imports of Paracetamol from China up to 27.10.2019 thereby amending the principal notification no. 26/2013- Customs (ADD) dated 28.10.2013.

SEEKS TO AMEND NOTIFICATION NO. 63/1994-CUSTOMS (N.T) - LAND CUSTOMS STATIONS AND ROUTES FOR IMPORT AND EXPORT OF GOODS BY LAND OR INLAND WATER WAYS - 50/2019 - CUSTOMS - NON TARIFF

OUR COMMENTS: The Central Board of Indirect taxes and Customs **vide Notification No. 50/2019- Customs (N.T.) dated 12.07.2019** made amendments in the Notification No. 63/1994- Customs (N.T.) dated 21.11.1994.

CORRIGENDUM - NOTIFICATION NO. 24/2019-CUSTOMS (ADD) DATED THE 18TH JUNE, 2019 - G.S.R. 493(E) - ANTI DUMPING DUTY

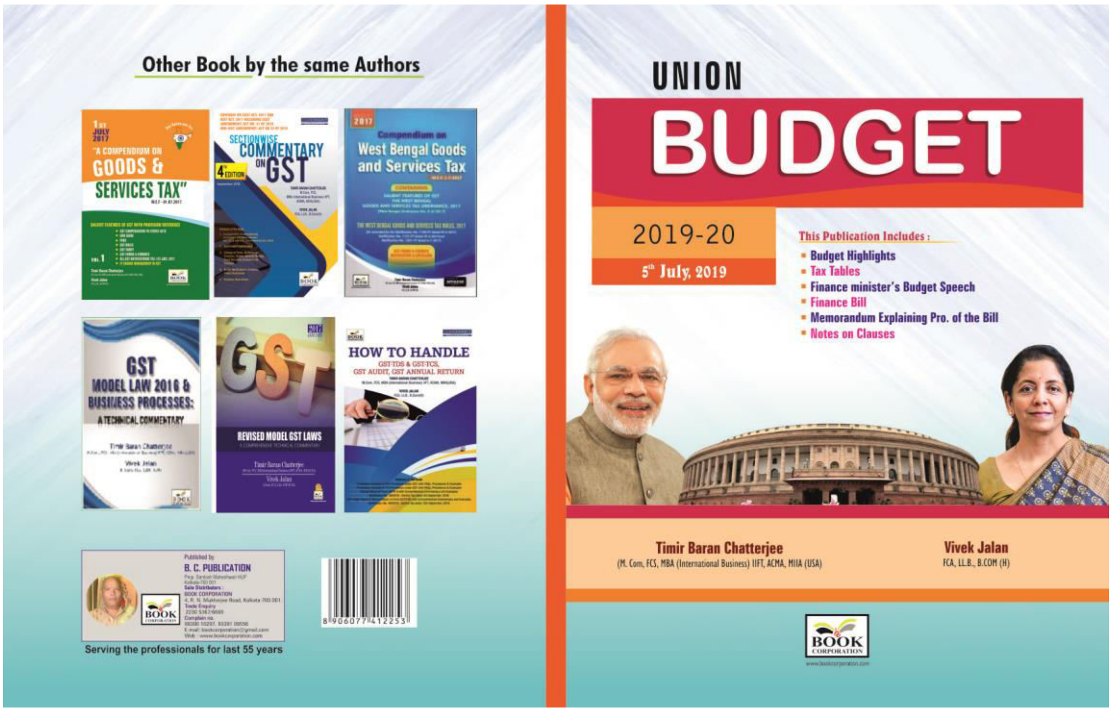
OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide G.S.R. 493(E) dated 10.07.2019** has issued corrigendum to the **Notification No. 24/2019-Customs (ADD) dated 18.06.2019**.

TARIFF NOTIFICATION IN RESPECT OF FIXATION OF TARIFF VALUE OF EDIBLE OILS, BRASS SCRAP, POPPY SEEDS, ARECA NUT, GOLD AND SLIVER - 49/2019 - CUSTOMS - NON TARIFF

OUR COMMENTS: The Central Board of Indirect Taxes and Customs **vide Notification No.49/2019- Customs (N.T.) dated 9.07.2019** has specified the tariff value of certain products thereby amending the principal notification no. 36/2001- Customs (N.T.) dated 3.08.2001.

IN STANDS

UNION BUDGET 2019-20



ABOUT THE BOOK: This publication includes:

1. **Budget Highlights**
2. **Tax tables**
3. **Finance Minister's Budget Speech**
4. **Finance Bill**
5. **Memorandum Explaining Pro. Of the Bill**
6. **Notes on Clauses**

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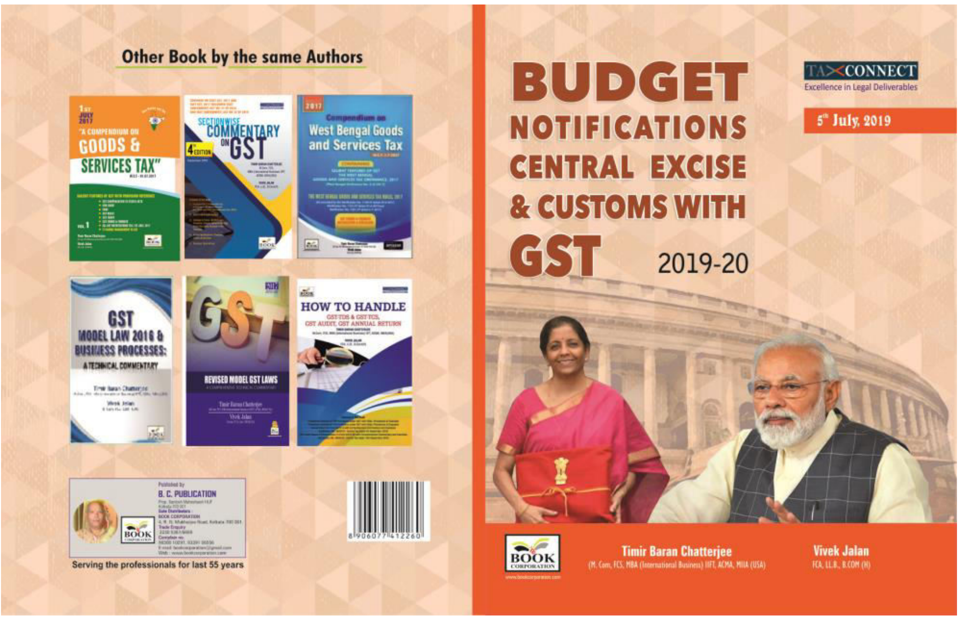
IN STANDS

BUDGET NOTIFICATIONS CENTRAL EXCISE & CUSTOMS WITH GST 2019-20



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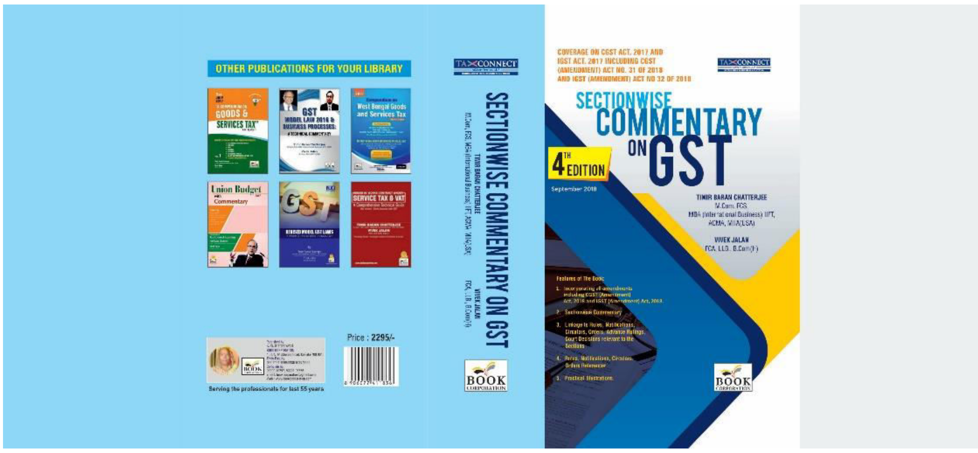
IN STANDS

SECTION WISE COMMENTARY ON GST UPDATED TILL DATE



ABOUT THE BOOK: **This book provides an insight into the following:**

1. **Incorporating all amendments**
2. **Section wise commentary**
3. **Linkages to Rules, Notifications, Circulars, Orders, Advance Rulings, Court Decisions relevant to the Sections**
4. **Rules, Notifications, Circulars, Orders Referencer**
5. **Practical Illustrations**

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